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LEANDER LAUREL JAMES IV

Moore, Victor

St. Michael's Church of Rochester, NY n/k/a Roman Catholic
Parish of St. Frances Xavier Cabrini a/k/a St. Frances Xavier
Cabrini Parish
Panepinto, Vincent

Total Fees Paid: \$0.00

Employee:

State of New York

MONROE COUNTY CLERK'S OFFICE
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ADAM J BELLO

MONROE COUNTY CLERK



SUPREME COURT STATE OF NEW YORK
COUNTY OF MONROE

-----X

VICTOR MOORE

Plaintiff,

VERIFIED COMPLAINT
INDEX NO.

v.

ST. MICHAEL'S CHURCH OF
ROCHESTER, NY, n/k/a ROMAN
CATHOLIC PARISH OF ST. FRANCES
XAVIER CABRINI a/k/a ST. FRANCES
XAVIER CABRINI PARISH,
and VINCENT PANEPINTO,

Defendants.

-----X

Plaintiff, VICTOR MOORE (also referred to herein as "Victor" or "Plaintiff"), by and through undersigned counsel, brings this action against the ROMAN CATHOLIC PARISH OF ST. MICHAEL'S CHURCH OF ROCHESTER NY, (also referred to herein as "St. Michael's"), now known as the ROMAN CATHOLIC PARISH OF ST. FRANCES XAVIER CABRINI a/k/a ST. FRANCES XAVIER CABRINI PARISH (also referred to herein as "St. Frances") and VINCENT PANEPINTO (also referred to herein as "Panepinto" or "Fr. Panepinto") and alleges, on personal knowledge as to himself, and on information and belief as to all other matters, as follows:

I. JURISDICTION AND VENUE

1. This Court has personal jurisdiction over the Defendants pursuant to CPLR § 301 and § 302, because Defendants reside in the State of New York and committed tortious acts within the State.

2. Jurisdiction is proper because this Complaint seeks monetary damages in excess of \$25,000.00, exclusive of interest, costs, and attorney's fees.

3. Venue is proper in this Court pursuant to CPLR § 503. The Defendant St. Michael's has its principal place of business in Monroe County. The acts and omissions giving rise to this Complaint also occurred in Monroe County.

4. Plaintiff brings this suit within the extended time period as provided for in Sections 208 and 214-G of the Civil Practice Law.

II. PARTIES

5. Plaintiff Victor Moore ("Plaintiff") is an adult resident of the State of New York, residing in Monroe County, New York and is otherwise *sui juris*.

6. Upon information and belief, Defendant St. Michael's was a Roman Catholic parish within and under the authority of the Bishop of The Diocese of Rochester and a religious corporation organized pursuant to the Religious Corporations law with a principal place of business at 869 Clinton Avenue North, Rochester, NY 14605 in Monroe County, New York. At relevant and material times, the Roman Catholic Bishop of Rochester, New York was the President of St. Michael's, the Roman Catholic Vicar General of The Diocese of Rochester, New York was the Vice-President of St. Michael's, and the Pastor of St. Michael's was the secretary. Additional board members included two lay persons approved by the Bishop/President and who could be removed by the Bishop/President. The Bishop appointed the Pastor to the parish and had the authority at all times relevant hereto to remove him from that position. At all times material hereto, the Bishop had authority over the Vicar General in his dual roles as Vicar General and Vice-President of St. Michael's. By virtue of his dual roles as Bishop/President, and his control and authority over the Vicar General, the Pastor and the two lay persons appointed to the board,

the Bishop and Diocese controlled St. Michael's. Defendant St. Michael's can be served with process through service on the Bishop of the Diocese of Rochester or on its authorized agent Philip G. Spellane of Harris Beach PLLC, 99 Garnsey Road, Pittsford, NY, 14534.

7. Upon information and belief, Defendant St. Frances is a religious corporation organized pursuant to the Religious Corporations Law with its principal office at 124 Evergreen Street, Rochester, New York 14605, in Monroe County, New York. As the result of several corporate mergers, Defendant St. Frances is the legal successor to Defendant St. Michael's and has assumed the liabilities of St. Michael's alleged herein; as the successor in interest who assumed liabilities for St. Michael's Church, St. Frances is liable for all damages alleged in this Complaint. St. Frances is a Roman Catholic parish within and under the authority of The Diocese of Rochester. At relevant and material times, the Roman Catholic Bishop of Rochester, New York has been the President of St. Frances, the Roman Catholic Vicar General of The Diocese of Rochester, New York was the Vice-President of St. Frances, and the Pastor of St. Frances was the Secretary. Additional board members included two lay persons approved by the Bishop/President and who could be removed by the Bishop/President. The Bishop appointed the Pastor to the parish and had the authority at all times relevant hereto to remove him from that position. At all times material hereto, the Bishop has had authority over the Vicar General in his dual roles as Vicar General and Vice-President of St. Frances. By virtue of his dual roles as Bishop/President, and his control and authority over the Vicar General, the Pastor and the two lay persons appointed to the board, the Bishop and Diocese controlled St. Frances. Defendant St. Frances can be served with process through service on the Bishop of the Diocese of Rochester or on its authorized agent Philip G. Spellane of Harris Beach PLLC, 99 Garnsey Road, Pittsford, NY, 14534.

8. At all times material, Defendant Panepinto was an ordained Diocesan priest within the Diocese of Rochester. The Diocese of Rochester assigned Defendant Panepinto to Defendant St. Michael's where he was exposed to children. The Diocese ordained Fr. Panepinto in 1967. Fr. Panepinto was the pastor of St. Michael's Church from approximately 1983 until 1991.

9. At all times material, Defendant St. Michael's hired, employed, supervised and/or managed Defendant Panepinto as an ordained Roman Catholic priest. Panepinto was at all times material hereto an employee and/or agent of St. Michael's Church. Through his position at, within, or for Defendant St. Michael's, Panepinto was put in direct contact with Plaintiff.

10. The provisions of Section 1602 of the CPLR do not apply to the within action including nondelegable duty and/or the doctrine of respondeat superior.

III. FACTUAL ALLEGATIONS

a) Fr. Vincent Panepinto's Assignments

11. In 1967, the Diocese of Rochester, then under the direction of Fulton J. Sheen, D.D., the Bishop of The Diocese of Rochester, ordained Vincent Panepinto as a Roman Catholic priest. The Diocese assigned Fr. Panepinto to St. Philip Neri Church of Rochester, New York, located at 1776 Clifford Ave., Rochester, New York, 14609, where he worked as a priest until 1972 when the Diocese of Rochester transferred him to St. Anthony's Church in Elmira, New York, where he remained until 1977.

12. In 1978 The Diocese of Rochester assigned Fr. Panepinto to Beckett Hall in East Rochester, NY where he remained until the Diocese assigned him to St. Michael's Church on Clinton Street in Rochester in 1983.

13. Fr. Panepinto was a pastor at St. Michael's and lived in the Rectory there through 1991.

14. In 1992, The Diocese of Rochester again transferred Fr. Panepinto, this time to St. Thomas Church in Elmira, NY. He remained at St. Thomas for less than a year.

15. In 1992, The Diocese of Rochester assigned Fr. Panepinto to Elmira Correctional Facility, where he served as chaplain of the prison until 1996.

16. In 1997, The Diocese of Rochester assigned Fr. Panepinto to be the chaplain at New York Drug Treatment Center in Willard, NY. He remained there until 2001. During this assignment, The Diocese of Rochester also employed Fr. Panepinto as a priest at St. Francis de Sales in Geneva, NY in 1998 and as a chaplain at Five Points Correctional Facility in Romulus, NY in 2001.

17. In 2002, The Diocese of Rochester again transferred Fr. Panepinto, this time to Corpus Christi Church in Rochester, NY. While serving at Corpus Christi, Fr. Panepinto also served as a chaplain at the Monroe County Jail from 2004 to 2007.

18. In 2006, The Diocese of Rochester assigned Fr. Panepinto to Our Lady of Mount Carmel, where he served as pastor through 2008. Concurrently with this assignment, Fr. Panepinto was also the priest at St. Francis Xavier in Rochester, NY.

19. In 2008, Corpus Christi, Our Lady of Mt. Carmel and Holy Redeemer/St. Francis Xavier merged to form Our Lady of the Americas, located at 864 E. Main St. in Rochester, NY. The Diocese of Rochester assigned Fr. Panepinto to serve as sacramental minister at Our Lady of the Americas from 2008 to early 2011.

20. Upon information and belief, The Diocese of Rochester removed Fr. Panepinto from ministry in 2011 and ultimately relegated him to a life of prayer and penance.

b) Plaintiff's Introduction to Panepinto: The Abuse

21. In the summer of 1983, when Plaintiff was 15 years old, Plaintiff was accepted to

a special summer work program. He was matched with St. Michael's Woodshop, which was run by Sister Pat Flynn at Defendant St. Michael's Church.

22. While working at the woodshop, Plaintiff was introduced to Fr. Panepinto. Fr. Panepinto frequently showed up at the woodshop program when Plaintiff was present. The priest began to build a rapport with Plaintiff.

23. In approximately July of 1983, Plaintiff was walking down Clinton Avenue when Fr. Panepinto pulled his car over to the side of the road and engaged Plaintiff in conversation. Fr. Panepinto invited Plaintiff to the rectory at St. Michael's to visit. Plaintiff got into the car and together they drove to St. Michael's rectory. Plaintiff respected and admired the priest, saw him as an authority figure and did what the Priest said.

24. After Plaintiff arrived with Panepinto at the rectory, Panepinto began mixing martinis and gave them to Plaintiff. Panepinto moved closer to Plaintiff, putting his hand on Plaintiff's leg. Plaintiff became impaired by the martinis. Panepinto began to fondle Plaintiff, first over-the-clothes, then under. Panepinto performed fellatio on Plaintiff.

25. After the first incident, Panepinto told Plaintiff not to tell anyone about what happened, that it was "between them" -- a mantra that Panepinto would repeat to Plaintiff many times over the years. Plaintiff was confused and afraid.

26. Approximately two weeks after the first sexual assault, Panepinto brought Plaintiff to the St. Michael's Church hall where bingo was played by parishioners and community members. There, Fr. Panepinto again sexually assaulted Plaintiff. He asked Plaintiff to sit on his face. The priest then performed oral sex on Plaintiff. Plaintiff was again confused and afraid, but the priest was an authority figure, so he complied.

27. Approximately one month after the sexual abuse began, Panepinto began requiring that Plaintiff anally penetrate him. Panepinto would sometimes require Plaintiff to sit on his face while he performed oral sex and masturbation on Plaintiff. Sometimes Panepinto would insist on engaging in anal penetration. The oral sexual acts were always performed on Plaintiff by Fr. Panepinto. The priest always insisted that Plaintiff perform the anal penetration on Panepinto.

28. The sexual abuse continued on at least a weekly basis, sometimes more frequently, until Plaintiff turned 19. Fr. Panepinto would give him alcohol before abusing him. Fr. Panepinto also gave him money or would buy Plaintiff things afterward to encourage Plaintiff to keep his mouth shut. Fr. Panepinto would also drink heavily during these encounters. He was sometimes drunk when he picked Plaintiff up in his car.

29. All of the incidents of abuse when Plaintiff was a child took place in the bingo hall or Panepinto's bedroom in the rectory at Defendant St. Michael's Church. The abuse occurred in the St. Michael's Rectory even when other priests, including Fr. Bob Werth, were residing in the rectory and present in the residence. Plaintiff believes that Fr. Werth knew or suspected something was going on but never spoke of it to him. Plaintiff's presence in the rectory was there to be seen by other priests in the rectory.

30. When Plaintiff was 16 or 17 years old, he became extremely intoxicated by the alcohol Panepinto served him in the rectory. He left the rectory that day after Panepinto's routine sex abuse ritual. About one block from the rectory, Plaintiff allegedly robbed a cab driver. Plaintiff has no memory of this event, but he was charged as an adult. He was convicted and received a nine-month sentence. He believes Fr. Panepinto had a hand in his light sentence. Fr. Panepinto always came to court with Plaintiff and seemed to have some influence within the legal system.

31. From 1983, when Plaintiff was approximately 15 years old, until approximately 1987, when Plaintiff was approximately nineteen years old, and again beginning in 2001 after Plaintiff's release from prison, until 2002, Fr. Vincent Panepinto sexually assaulted, sexually abused, and/or engaged in unwanted sexual contact with Plaintiff. Fr. Panepinto sexually assaulted, abused, and/or had sexual contact with said Plaintiff on the premises of St. Michael's Church.

32. At the time of the events described herein, Defendant St. Michael's was the legal owner and/or tenant/occupier of the church located at 859 Clinton Avenue, Rochester, New York, 14609, as well as the rectory and parish hall, all located at approximately the same location.

33. At all times material, Plaintiff revered and trusted the Roman Catholic Church, Fr. Panepinto, and all Roman Catholic clergy. Plaintiff was not raised Roman Catholic, but was taught to believe that priests, including Fr. Panepinto, were special, that they were trustworthy, and to do what they asked and not disparage or disobey them. Plaintiff saw Panepinto as a role model.

34. Fr. Panepinto acted in a priestly and fatherly role towards Plaintiff.

35. Fr. Panepinto encouraged Plaintiff to engage in alcohol and drug use and would supply both to Plaintiff.

36. Fr. Panepinto exerted authority over Plaintiff and instructed Plaintiff to remain silent about the abuse.

c) Defendant's Responsibility for the Abuse Committed by Fr. Panepinto

37. At all times relevant to the allegations set forth herein, Father Vincent Panepinto was a priest employed, supervised, and managed by the Defendant St. Michael's, and was an employee and/or agent for said Defendant. All acts and omissions of Panepinto were done in the course and scope of his employment and/or agency for Defendant St. Michael's.

38. In his leadership role as pastor and Secretary of the corporate board of the parish, Fr. Panepinto's knowledge of his dangerous sexual proclivities and his sexual misconduct with minors was imputed to Defendant.

39. In March 2011, the Diocese of Rochester placed Fr. Panepinto on "leave without privileges" following what the Diocese deemed to be a credible accusation of sexual abuse of a minor committed by Fr. Panepinto in the late 1960s.

40. In July 2011, Fr. Panepinto was arrested and charged with grand larceny for stealing \$10,000 from Our Lady of the Americas Church between 2007 and 2010.

41. By holding Fr. Vincent Panepinto out as safe to work with children, and by undertaking the custody, supervision of, and/or care of the minor Plaintiff, Defendant St. Michael's entered into a special relationship with the minor Plaintiff. As a result of Plaintiff being a minor, and by Defendant's undertaking the care and guidance of the then vulnerable Plaintiff, Defendant held a position of empowerment over Plaintiff.

42. Furthermore, Defendant, by holding itself out as being able to provide a safe environment for children, solicited and/or accepted this position of empowerment. This empowerment prevented the Plaintiff from effectively protecting himself, and Defendant thus entered into a special relationship with Plaintiff. By holding themselves out as a safe, moral, and trusted institution to Plaintiff's parents, Defendant induced Plaintiff's parents to entrust their child to Defendant and thereby deprived Plaintiff of the protection of his family.

43. At all times material, Fr. Panepinto's sexual abuse of Plaintiff was foreseeable. The problem of clergy sexual abuse of minors is well-documented throughout the history of the Roman Catholic Church. As far back as 1051, St. Peter Damian wrote in the *Book of Gomorrah* that clergy who defiled boys should be dismissed from holy orders. (*Book of Gomorrah*, Ch. 6). Later, St. Peter Damian wrote in his *Rule of the Monastery of Compludo*, about the punishment for "A cleric or monk who seduces youths or young boys" being public flogging, loss of tonsure and six months in jail, among other punishment. In 1143 or 1144, a professor at the University of Bologna named Gratian, known as the "Father of the Science of Canon Law," identified in his work the *Decretum*, the sexual sin by a priest that he called *stuprum pueri*, which is the sexual use of boys by an adult male.

44. In 1961, the Vatican issued an instruction on the training of candidates for the priesthood, which was based upon the 1917 Code of Canon Law which stated:

Advancement to religious vows and ordination should be barred to those who are afflicted with evil tendencies to homosexuality or pederasty, since for them the common life and priestly ministry would constitute serious dangers.

45. This knowledge that Catholic clergy were sexually abusing minors continued through the middle ages and into recent history. In 1962, Pope John XXIII approved the publication *De Modo Procedendi in Causis Solicitationis*, a special procedural law for solicitation of sex in the confessional. This document contained prohibitions prohibiting clergy from having sex with minors under the age of sixteen. This document was distributed to every bishop and major religious superior in the world and was to be kept by them with the deepest secrecy. In addition, this document reflected the Catholic Church's insistence on maintaining the highest degree of secrecy regarding the worst sexual crimes perpetrated by clergy.

46. In 1947, a priest named Fr. Gerald Fitzgerald founded a religious order of priests called the Servants of the Paracletes. This religious order was founded in order to assist and treat Catholic clergy who experienced mental health problems. By 1952, Fr. Fitzgerald wrote that he had already treated a handful of priests who had sexually abused minors. By 1963, the Paracletes were treating so many sexually abusive clergy that they developed a shorthand code, "code 3," to describe the offense. By 1966, the Paracletes began specializing in treatment of pedophile Catholic clergy.

47. As early as 1971, the issue of sexual misconduct by clergy was being discussed in the Commonwealth of Massachusetts. Bishop Bernard Flanagan, Bishop of Worcester (Massachusetts) testified that as early as February 1971, there had been discussions about sexual misconduct among priests. According to Bishop Flanagan, "I think by 1971 I had heard of other

cases of this type [sic] sexual misconduct and I knew that they were taking place in other dioceses too.”

48. That same year, Dr. Conrad Baars and Dr. Anna Terruwe presented a scholarly paper titled *The Role of the Church in the Causation, Treatment and Prevention of the Crisis in the Priesthood*” to the 1971 Synod of Bishops at the Vatican and to the U.S. Conference of Catholic Bishops about psychiatric problems in Catholic clergy and how psychosexual immaturity manifested itself in heterosexual and homosexual activity. In 1990, psychologist and priest, A.W. Richard Sipe, published a study involving 1,500 priests that concluded that six (6) percent of priests were sexually involved with minors.

49. In 1985, the public prosecution of a priest in Lafayette, Louisiana led to the creation of the 100-page document titled *“The Problem of Sexual Molestation by Roman Catholic Clergy: Meeting the Problem in a Comprehensive and Responsible Manner”* by Fr. Thomas Doyle, F. Ray Mouton and Fr./Dr. Michael Peterson. This document was distributed to every Catholic Bishop and religious order ordinary in the United States. A significant portion of this document describes how significant the sexual abuse of children by Catholic clergy had become.

50. As to Panepinto, specifically, Defendant knew or should have known that Fr. Panepinto was a sexual risk to children. While at Seminary in the 1960’s, Fr. Panepinto (then a seminarian/deacon) openly engaged in public, sexual conduct by touching other, young seminarians in a sexual way. Panepinto was openly engaged in relationships with two fellow seminarians, Dave Simon and Jim Buccaria, throughout the duration of his time at the seminary within the Diocese of Rochester. The Diocese allowed him to graduate from seminary and empowered him through ordination with authority and power over lay adults and children. Panepinto kept young boys in the rectory for years prior to Plaintiff. Other priests saw these boys.

Another survivor of Panepinto saw Plaintiff at the rectory of Defendant St. Michael's with Panepinto.

51. The Diocese of Rochester's many reassignments, and the type of reassignments, further provide circumstantial evidence that the Diocese and the parishes where Panepinto was assigned knew Panepinto had problems, in part by virtue of the fact that The Bishop of the Diocese of Rochester was also the President of each parish.

CAUSES OF ACTION

FIRST CAUSE OF ACTION AGAINST DEFENDANT VINCENT PANEPINTO

SEXUAL ABUSE/BATTERY

52. Plaintiff repeats and re-alleges each and every allegation set forth in all paragraphs as if fully set forth herein.

53. On multiple occasions, Defendant Vincent Panepinto intentionally made contact with the Plaintiff's body, touching the Plaintiff's genitals.

54. Defendant Vincent Panepinto's touching of Plaintiff was offensive and unwanted.

55. As a direct and proximate result of Defendant Vincent Panepinto's offensive and unwanted sexual touching, Plaintiff has suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, humiliation, psychological injuries, loss of ability to engage in gainful activity, loss of income and other damages, past and future.

56. As a direct and proximate result of Defendant Vincent Panepinto's offensive and unwanted sexual touching, Plaintiff was injured and damaged; said injuries and damages include but are not limited to: physical injury, emotional distress, loss of enjoyment of life, loss of ability to engage in gainful activity, loss of income, and loss of ability to perform his normal daily

activities and to obtain the full enjoyment of life.

57. As a direct and proximate result of Defendant Vincent Panepinto's offensive and unwanted sexual touching, Plaintiff has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

WHEREFORE, Plaintiff demands judgment against Defendant Vincent Panepinto for compensatory damages, costs and such other and further relief as this Court deems proper.

SECOND CAUSE OF ACTION AGAINST DEFENDANTS

ST. MICHAEL'S CHURCH AND ITS SUCCESSOR

ROMAN CATHOLIC PARISH OF ST. FRANCES XAVIER CABRINI

NEGLIGENCE/GROSS NEGLIGENCE

58. Plaintiff repeats and re-alleges each and every allegation set forth in all paragraphs as if fully set forth herein.

59. Defendants St. Michael's Church and its successor Roman Catholic Parish of St. Frances Xavier Cabrini (hereinafter "Defendants") allowed Fr. Panepinto to have unsupervised and unlimited access to minor children while in a position of authority over them, at St. Michael's Church in Rochester, New York, located at the time within the Diocese of Rochester.

60. At all times material, Fr. Panepinto was employed by Defendant St. Michael's and was an agent for them.

61. At all times material, Fr. Panepinto remained under the direct supervision, employ, and control of the Defendant St. Michael's.

62. Upon information and belief, before Plaintiff was sexually abused by Fr. Panepinto, Defendant had actual or constructive knowledge of material facts regarding Fr. Panepinto's sexual misconduct, impulses, and behavior, and had actual or constructive knowledge that he posed a sexual risk of harm to children.

63. Despite clear indications of danger, Defendant took no steps to discover the specific nature of Fr. Panepinto's problems or to determine whether he was fit to work with children or to protect children from him, thereby increasing the likelihood that Plaintiff would be harmed.

64. Plaintiff was an at-risk youth engaged in the work program at St. Michael's woodshop where Fr. Panepinto frequented, and where Plaintiff and Fr. Panepinto developed a strong rapport. Plaintiff, therefore, developed great admiration, trust, reverence, and respect for the Roman Catholic Church and its agents, the Diocese of Rochester and its agents, including the Bishop/President of the parish corporation, and Defendant St. Michael's Church and its agents, including Fr. Panepinto and the Bishop/President of the parish corporation.

65. Defendant held Fr. Panepinto out as a qualified Roman Catholic priest who was safe with children and undertook the education, religious instruction, and spiritual and emotional guidance of Plaintiff. Accordingly, Plaintiff placed trust in Defendant so that Defendant and its agents gained superiority and influence over Plaintiff. Defendant entered into a special relationship with the Plaintiff and his family.

66. Defendant knew or should have known that some of the leaders and people working at Catholic institutions within the Diocese of Rochester were not safe for children.

67. Defendant knew or should have known that they lacked sufficient information about whether their leaders and people working at Catholic institutions within the Diocese of Rochester, including at St. Michael's, were safe around children.

68. Defendant knew or should have known that there was a risk of child sex abuse for children participating in Catholic programs and activities within the Diocese of Rochester and at St. Michael's.

69. Defendant knew or should have known that it lacked sufficient information about

whether there was a risk of child sex abuse for children participating in Catholic programs and activities within the Diocese of Rochester, including at St. Michael's.

70. Defendant knew or should have known that child molesters have a high rate of recidivism. Defendant knew or should have known that there was a specific danger of child sex abuse for children participating in Defendant's programs.

71. Defendant held its leaders and agents out as people of high morals and as possessing immense power. They taught families and children to obey, respect and revere these leaders and agents.

72. Defendant solicited youth and families to their programs and schools, including Plaintiff. Defendant specifically marketed to youth and families in order to recruit youth and families to their programs. Defendant gave Fr. Panepinto access to youth participating in said programs, including Plaintiff.

73. Defendant held out the people that worked in the programs, including Fr. Panepinto, as safe for children/youth.

74. Defendant made negligent representations to Plaintiff and his family during each and every year of his minority. Plaintiff and/or his family relied upon these representations, which resulted in Plaintiff being put in a vulnerable situation with Fr. Panepinto and subjected to his sexual misconduct and harm.

75. Defendant owed Plaintiff a duty of reasonable care because it assumed duties owed to Plaintiff and had superior knowledge about the risk that Fr. Panepinto posed to Plaintiff, the risk of abuse in general in their programs, and/or the risks that its facilities posed to minor children. Defendant had the duty to protect the moral purity of Plaintiff and other children with whom Panepinto came in contact within the Diocese of Rochester and at St. Michael's Church.

76. Defendant owed Plaintiff a duty of reasonable care because it assumed that duty and because it solicited youth and parents for participation in its youth programs, including Plaintiff.

77. Defendant owed Plaintiff a duty of reasonable care because it undertook custody of minor children, including Plaintiff.

78. Defendant owed Plaintiff a duty of reasonable care because it promoted its facilities and programs as being safe for children, including Plaintiff.

79. Defendant owed Plaintiff a duty of reasonable care because it held out its agents, including Fr. Panepinto, to the public, including Plaintiff, as safe to work with children.

80. Defendant owed Plaintiff a duty of reasonable care because it encouraged parents and children, including Plaintiff, to spend time with its agents; and/or encouraged its agents, including Fr. Panepinto, to spend time with, interact with, and recruit children.

81. Defendant had a duty to Plaintiff to protect him from harm because Defendant's actions created a foreseeable risk of harm to Plaintiff.

82. Defendant breached its duties by exposing Plaintiff to a known pedophile.

83. Defendant breached its duties by exposing Plaintiff to a priest Defendant knew or should have known was a pedophile.

84. Defendant breached its duties by recruiting, hiring, and maintaining Fr. Panepinto in a position of authority over children, including Plaintiff.

85. Defendant breached its duties by exposing Fr. Panepinto to children, including Plaintiff.

86. Defendant breached its duties by leaving Fr. Panepinto alone with children unsupervised, including Plaintiff.

87. Defendant breached its duties by inducing Plaintiff and his parents to entrust Plaintiff to Fr. Panepinto.

88. Defendant breached its duties by failing to follow policies and procedures designed to prevent child sex abuse and/or failing to implement sufficient policies and procedures to prevent child sex abuse.

89. Defendant breached its duties by failing to take reasonable measures to make sure that policies and procedures to prevent child sex abuse were working.

90. Defendant breached its duties by holding out its employee and agent, Fr. Panepinto, as safe and wholesome for children to be with.

91. Defendant breached its duties by failing to investigate risks of child molestation.

92. Defendant breached its duties by failing to properly train the workers at its institutions and programs.

93. Defendant breached its duties by failing to have any outside agency test its safety procedures.

94. Defendant breached its duties by failing to protect the children in its programs from child sex abuse and failing to adhere to the applicable standard of care for child safety.

95. Defendant breached its duties by failing to investigate the amount and type of information necessary to represent the institutions, programs, and leaders and people as safe.

96. Defendant breached its duties by failing to respond to and/or investigate information of improper conduct with children of their employee and agent, Fr. Panepinto.

97. Defendant breached its duties by failing to properly train its employees to identify signs of child molestation by fellow employees.

98. Defendant breached its duty to use ordinary care in determining whether its

facilities were safe and/or to determine whether they had sufficient information to represent its facilities as safe.

99. Defendant breached its duty of care by recruiting, hiring, and maintaining Fr. Vincent Panepinto at its facilities.

100. Defendant breached its duty of care by maintaining a dangerous condition on the premises of its facilities (i.e., a priest Defendant knew or should have known posed a risk of pedophilic harm to children).

101. Defendant breached its duty of care by holding out its facilities as a safe and moral place for children, knowing the facilities were neither safe nor moral.

102. Defendant breached its duty of care by failing to have sufficient policies and procedures to prevent abuse at its facilities.

103. Defendant breached its duty of care by failing to investigate risks at its facilities.

104. Defendant breached its duty of care by failing to properly train the workers at its facilities and failing to have any outside agency test its safety procedures.

105. Defendant breached its duty of care by failing to investigate the amount and type of information necessary to represent its facilities as safe.

106. Defendant breached its duty of care by failing to train its employees properly to identify signs of child molestation by fellow employees.

107. Defendant breached its duties to Plaintiff by holding out clergy members, including Fr. Panepinto, as safe, moral, and trustworthy people and by failing to warn Plaintiff and his family of the risk that Fr. Panepinto posed and the known risks of child sexual abuse by clerics in general.

108. Defendant breached its duties to Plaintiff by failing to warn Plaintiff about any of the knowledge that the Defendant had about child sex abuse perpetrated by clergy or Fr. Panepinto.

109. Defendant breached its duties to Plaintiff by failing to report Fr. Panepinto's abuse of children to the police and law enforcement.

110. Defendant further breached its duties by hiding a pedophile and engaging in a cover-up of abuse perpetrated by Fr. Panepinto.

111. As a direct and proximate result of Defendant's negligence, gross negligence and breaches of duty, Plaintiff has suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, humiliation, psychological injuries, loss of ability to engage in gainful employment, loss of income and other losses and damages, past and future.

112. As a direct result of Defendant's negligence, gross negligence and breaches of duty, Plaintiff was prevented and will continue to be prevented from performing his normal daily activities and obtaining the full enjoyment of life.

113. As a direct result of Defendant's negligence, gross negligence and breaches of duty, Plaintiff has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

114. As the successor in interest who assumed liabilities for St. Michael's Church, Roman Catholic Parish of St. Frances Xavier Cabrini is liable for all damages alleged in this Complaint.

WHEREFORE, Plaintiff demands judgment against Defendants St. Michael's Church and St. Frances Xavier Cabrini for compensatory damages, costs and such other and further relief as this Court deems proper.

**THIRD CAUSE OF ACTION AGAINST DEFENDANT ST. MICHAEL'S CHURCH AND
ST. FRANCES XAVIER CABRINI**

RESPONDEAT SUPERIOR/VICARIOUS LIABILITY

115. Plaintiff repeats and re-alleges each and every allegation set forth in all paragraphs as if fully set forth herein.

116. At all times material, Fr. Panepinto was employed by, and/or an agent of, Defendant St. Michael's Church.

117. At all times material, Fr. Panepinto was on duty as a priest 24 hours per day, 7 days per week.

118. At all times material, Fr. Panepinto remained under the direct supervision, employ, and control of the Defendant.

119. At all times material, Defendant had the right to control the manner and means of Fr. Panepinto's performance.

120. At all times material, Defendant paid Fr. Panepinto's salary and paid for Fr. Panepinto's health insurance and other benefits.

121. At all times material, Defendant furnished an office and other materials, supplies, and tools required for Fr. Panepinto to perform in his position as a priest.

122. At all times material, Defendant controlled the premises where Fr. Panepinto performed as a priest.

123. At all times material, Defendant had the power to terminate the employment of Fr. Panepinto.

124. Defendant allowed Fr. Panepinto to have unsupervised and unlimited access to young children at St. Michael's Church and St. Michael's Woodshop, located at the time within

the Diocese of Rochester.

125. Among other duties, Defendant employed Fr. Panepinto to interact with various youth, and to mentor and guide at-risk youth and provide spiritual counseling programs at St. Michael's Church.

126. Defendant created a master-servant relationship with Fr. Panepinto, employing him to interact and supervise children participating in programs at St. Michael's.

127. At times material hereto, unwanted sexual contact by Fr. Panepinto upon Plaintiff occurred during his regular working hours and at the place of his employment with Defendant while performing duties of a priest on behalf of his employer.

128. Fr. Panepinto engaged in unpermitted, harmful, and offensive sexual contact with the Plaintiff on the physical premises of and around St. Michael's Church. Fr. Panepinto sexually assaulted Plaintiff when Plaintiff was a minor and without Plaintiff's consent.

129. The sexual contact by Fr. Panepinto occurred in the course and scope of his employment with Defendant.

130. The sexual contact by Fr. Panepinto was generally foreseeable to Defendant.

131. Upon information and belief, before Plaintiff was sexually abused by Fr. Panepinto, Defendant had actual or constructive knowledge of material facts regarding Fr. Panepinto's sexual misconduct, impulses, and behavior but failed to act on that knowledge and exposed Plaintiff as a child to Fr. Panepinto, thereby increasing the likelihood that Plaintiff would be harmed.

132. The sexual contact by Fr. Panepinto was closely connected to what he was employed to do as a priest with Defendant, and/or was otherwise naturally incidental to his job duties.

133. Fr. Panepinto's conduct was motivated, at least in part, by a desire to serve his

employer's business interests or otherwise meet the objectives of his employment, however misguided.

134. Alternatively, Fr. Panepinto's conduct constituted an authorized, minor deviation from his employment that was authorized and/or ratified by Defendant.

135. As a direct and proximate result of Fr. Panepinto's conduct, Plaintiff has suffered damages as set forth herein.

136. As the successor in interest who assumed liabilities for St. Michael's Church, Roman Catholic Parish of St. Frances Xavier Cabrini is liable for all damages alleged in this Complaint.

WHEREFORE, Plaintiff demands judgment against Defendants St. Michael's Church and Roman Catholic Parish of St. Frances Xavier Cabrini for compensatory damages, costs and such other and further relief as this Court deems proper.

**FOURTH CAUSE OF ACTION AGAINST DEFENDANT ST. MICHAEL'S
CHURCH AND ROMAN CATHOLIC PARISH OF ST. FRANCES XAVIER CABRINI
NEGLIGENT HIRING, RETENTION, AND SUPERVISION**

137. Plaintiff repeats and realleges each and every allegation set forth in all paragraphs as if set forth fully herein.

138. At all material times, Defendant St. Michael's, by and through its agents, managers, employees, and directors owed a duty to Plaintiff to use reasonable care to protect his safety, care, well-being and health while he was under the care and custody or in the presence of the Defendant. These duties encompassed the use of reasonable care in the hiring, retention and supervision of Fr. Panepinto and otherwise providing a safe environment for children.

139. Prior to the sexual misconduct perpetrated by Fr. Panepinto upon Plaintiff, Defendant knew, or in the exercise of reasonable care, should have known, of the general problem of Catholic clergy engaging in sexual misconduct with children who were in Diocese of Rochester and St. Michael's programs.

140. Prior to the sexual misconduct perpetrated by Fr. Panepinto upon Plaintiff, Defendant knew, or in the exercise of reasonable care, should have known, that Fr. Panepinto was unfit for the duties assigned to him, that he did not exhibit appropriate behavior with children, and he otherwise posed a risk of perpetrating unwanted sexual contact upon children.

141. Given actual or constructive knowledge of Fr. Panepinto's dangerous propensities, the Defendant had a duty to act reasonably in all decisions relating to his hiring, supervision, and retention as an employee.

142. Defendant failed to exercise reasonable care in one or more of its decisions to hire, supervise, and retain Fr. Panepinto and therefore exposed Plaintiff to an unreasonable risk of harm.

143. Defendant affirmed and ratified Fr. Panepinto's misconduct with Plaintiff. Given the actual and constructive knowledge of the likelihood that Fr. Panepinto and/or other clergy would engage children in unwanted sexual contact, the unwanted sexual contact of Plaintiff was reasonably foreseeable to Defendant.

144. Defendant and its agents had superior knowledge of the likelihood that Fr. Panepinto would engage in unwanted sexual contact with children that he encountered in his position as a priest and had a duty to take precautions to lessen the risk that Plaintiff would be the victim of unwanted sexual contact. At all relevant times, Defendant's acts and omissions created an environment which fostered unwanted sexual contact and exploitation against the people it had a duty to protect, including Plaintiff.

145. At all relevant times, Defendant had inadequate policies and procedures to protect children entrusted to their care and protection, including Plaintiff, which substantially contributed to the creation of a dangerous environment.

146. As a direct and proximate result of the negligence of Defendant, Plaintiff suffered severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life, and has incurred and/or will incur costs for treatment in the future. These injuries are permanent and ongoing in nature.

147. As the successor in interest who assumed liabilities for St. Michael's Church, Roman Catholic Parish of St. Frances Xavier Cabrini is liable for all damages alleged in this Complaint.

WHEREFORE, Plaintiff demands judgment against Defendants St. Michael's Church and Roman Catholic Parish of St. Frances Xavier Cabrini for compensatory damages, costs and such other and further relief as this Court deems proper.

**FIFTH CAUSE OF ACTION AGAINST DEFENDANT ST. MICHAEL'S CHURCH AND
ROMAN CATHOLIC PARISH OF ST. FRANCES XAVIER CABRINI**

NEGLIGENCE/PREMISES LIABILITY

148. Plaintiff repeats and realleges each and every allegation set forth in all paragraphs as if set forth fully herein.

149. Plaintiff was a business invitee of Defendant St. Michael's when Fr. Panepinto engaged him in unwanted sexual contact.

150. Defendant owed Plaintiff a duty to protect him from dangerous conditions on the premises that it knew about, or in the exercise of reasonable care, could have discovered.

151. Defendant owed Plaintiff a duty to provide a reasonably safe environment where he would be free from the threat of unwanted sexual contact while on Defendant's premises.

152. Defendant owed Plaintiff a duty to take reasonable precautions to ensure his safety while on the premises of Defendant.

153. Prior to the sexual misconduct perpetrated by Fr. Panepinto upon Plaintiff, Defendant knew, or in the exercise of reasonable care, should have known, of the general problem of priests and other clergy engaging in sexual misconduct with children, including on its premises.

154. Prior to the sexual misconduct perpetrated by Fr. Panepinto upon Plaintiff, Defendant knew, or in the exercise of reasonable care, should have known, that Fr. Panepinto was unfit for the intimate duties assigned to him, that he did not exhibit appropriate behavior with children, and otherwise posed a risk of perpetrating unwanted sexual contact upon children.

155. Defendant breached the duty owed to Plaintiff by failing to make the premises reasonably safe for Plaintiff despite what it knew or should have known about the existence of a potential threat of harm to Plaintiff on its premises.

156. Defendant breached the duty it owed to Plaintiff by failing to warn Plaintiff of the dangers and risks involved in going onto the premises at St. Michael's Church given their superior knowledge of the potential risk of harm to Plaintiff.

157. At all relevant times, Defendant had inadequate policies and procedures to protect children entrusted to its care and protection, including Plaintiff, which substantially contributed to the creation of a dangerous environment.

158. As a direct and proximate result of the negligence, gross negligence and breaches of duty of Defendant, Plaintiff suffered severe and permanent psychological, emotional and physical injuries, shame, humiliation, loss of ability to engage in gainful activity, loss of income

and the inability to lead a normal life, and has incurred and/or will continue to incur costs for treatment and other injuries and damages. These injuries and damages are permanent and ongoing in nature.

159. As the successor in interest who assumed liabilities for St. Michael's Church, Roman Catholic Parish of St. Frances Xavier Cabrini is liable for all damages alleged in this Complaint.

WHEREFORE, Plaintiff demands judgment against the Defendants for a sum in excess of the jurisdictional limits of all lower courts, together with the costs and disbursements and other expenses necessary in this action.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Rochester, New York

Dated: November 12, 2019

Yours, etc.,



Leander James, ljames@jvwlaw.net
Craig Vernon, cvernon@jvwlaw.net
James, Vernon & Weeks, PA
20 Vesey Street
New York, NY 10007

1626 Lincoln Way
Coeur d'Alene, ID 83815
(888) 667-0683

Patrick Noaker, patrick@noakerlaw.com
1600 Utica Ave. S, 9th Fl.
St. Louis Park, MN 55416
(952) 491-6798

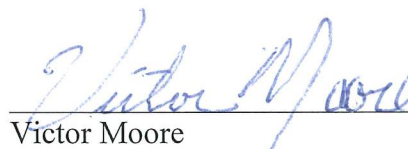
VERIFICATION

STATE OF NEW YORK)
)
COUNTY OF MONROE) ss:

Victor Moore affirms under penalty of perjury, that he has read the foregoing VERIFIED COMPLAINT and knows the contents thereof; that the same is true to the affirmant's own knowledge, except at to those matters therein stated to be on information and belief and as to these matters affirmant believes them to be true.

Dated: Rochester, New York

Nov. 16, 2019


Victor Moore